**Office of the**
**Ohio Consumers' Counsel**

Robert S. Tongren
Consumers' Counsel

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FEB 14 1997

February 13, 1997

William F. Caton, Secretary
Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

*Re:* ***In the Matter of Access Charge Reform Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing Usage of the Public Switched Network by Information Service and Internet Access Providers.***

Dear Secretary:

Enclosed please find the original and sixteen (16) copies of the Comments of the Ohio Consumers' Counsel to be filed in the above referenced proceeding.

Please date-stamp and return the additional copy in the pre-addressed, postage prepaid envelope to acknowledge receipt.

Thank you for your attention to this matter.

Sincerely,

David C. Bergmann
Assistant Consumers' Counsel

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Reply Comments of the Ohio Consumers' Counsel
CC Docket No. 96-262
February 14, 1997

FEB 14 1997

**BEFORE THE**
**FEDERAL COMMUNICATIONS COMMISSION**
Washington, D.C. 20554

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| Access Charge Reform | ) | CC Docket No. 96-262 |
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| Price Cap Performance Review for Local Exchange Carriers | ) | CC Docket No. 94-1 |
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| Transport Rate Structure and Pricing | ) | CC Docket No. 91-213 |
| | ) | |
| Usage of the Public Switched Network by Information Service and Internet Access Providers | ) | CC Docket No. 96-263 |

## REPLY COMMENTS OF THE OHIO CONSUMERS' COUNSEL

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## REPLY COMMENTS OF THE OHIO CONSUMERS' COUNSEL

### INTRODUCTION

Robert S. Tongren, in his capacity as the Ohio Consumers' Counsel (OCC), submits these reply comments to the Federal Communications Commission (Commission) in response to comments filed by other parties pursuant to Release 96-488, the Notice of Proposed Rulemaking, Third Report and Order, and Notice of Inquiry (NPRM) in the above-captioned dockets.

As noted in the OCC's initial comments, the OCC represents the residential telecommunications consumers of the State of Ohio pursuant to Ohio Revised Code Chapter 4911. Residential consumers are served by the interexchange carriers (IXCs) who pay the access charges that are the subject of this proceeding. The OCC also represents the residential customers of the local exchange carriers (LECs) who receive the revenue from access charges paid by the IXCs.

These reply comments respond to only a fraction of the comments filed in this docket.[1] The comments are extensive, the press of other proceedings is intense, and the time for response is limited. The OCC suggests that the Commission should not take the sheer bulk of other parties' comments as a demonstration of the correctness of their position. For instance, the volume of AT&T's comments is principally indicative only of AT&T's economic interest resulting from its 60% market share, where the charges at issue in this proceeding represent 40% of the firm's costs, rather than of any inherent merit.

As a lead-in to the OCC's comments, the following table presents the views of commenters on three of the crucial issues in this proceeding:

| Name of party | Position on access charges | Position on flowthrough | Position on SLCs |
|---|---|---|---|
| AARP | at TELRIC (at i) | "Any reductions in | reduce (at 15) |

[1] The comments reviewed include ALLTEL Telephone Services Corporation (ALLTEL); American Association of Retired Persons, Consumer Federation of America, and Consumers Union (AARP); Ameritech; AT&T Corporation (AT&T); Cincinnati Bell Telephone Company (CBT); Citizens for a Sound Economy; Competition Policy Institute (CPI); Group of State Consumer Advocates (SCA); GTE Service Corporation (GTE); MCI Telecommunications Corporation (MCI); National Association of Regulatory Utility Commissioners (NARUC); National Exchange Carrier Association; Public Utilities Commission of Ohio (PUCO); Rural Telephone Coalition (RTC); Sprint Corporation (Sprint); Texas Office of Public Utility Counsel (TPUC); and Time Warner Communications Holdings, Inc. (TW).

| | | | |
|---|---|---|---|
| | | access charges should be passed through to basic long distance rates." (at 17) | |
| ALLTEL | | | need not be increased (at 10) |
| Ameritech | | | need not be increased (at 5) |
| AT&T | at forward looking economic cost (at 9); *but see* at 40: "[f]orward-looking rates expressly designed to provide a reasonable profit and cover a reasonable share of joint and common costs" | "committed" (at 14) | uncapped; recover all NTS costs (at iv) |
| CBT | include embedded costs (at 21) | | lift cap; all line costs paid by end users (at 6) |
| CPI | at forward-looking economic costs (at 7), include a reasonable share of joint and common costs (at 21) | should be flowed through (at 7) | reduce (at 18) |

| **Name of party** | **Position on access charges** | **Position on flowthrough** | **Position on SLCs** |
|---|---|---|---|
| GTE | include embedded costs (at 41-44) | | remove cap;.all loop costs recovered through SLC (at 19-20) |
| MCI | "at forward looking costs" (at 2, 12); but "based on forward-looking cost principles" (at 7); "includes the cost of capital and a reasonable share of overhead costs" (at 30) | | economic cost of interstate loop is below current SLC (at 79) |
| PUCO | | | no increase (at 1) |
| NARUC | | | eliminate (at 13) |
| RTC | allow recovery of embedded costs (at 14) | should be required (at 26) | do not increase (at 8) |
| SCA | at forward-looking economic costs (includes joint and common) (at 7) | | eliminate (at 24) |
| Sprint | | | "immediately transfer all carrier common line and non-traffic sensitive switching costs" to the SLC (at 8) |
| TPUC | "efficient, competitive levels" (at 5) | through elimination of SLC (at 11) | eliminate (at 10) |

The parties in this chart represent most of the key factions in this proceeding: LECs, IXCs, NECs (and all variations), as well as regulators and consumer advocates. It can be seen that, except for the ILECs, all parties support an economic, Total Element Long-Run Incremental Cost (TELRIC) basis for access charges. Those who had an opinion on flowthrough of access charge reductions to end users favored it. And, finally, a majority (including all the advocates, all the regulators, rural ILECs, and one major IXC) support leaving the Subscriber Line Charge (SLC) at current levels, reducing it, or eliminating the SLC entirely.

## A. The process of access reform

### 1. There will be benefits from access charge reform only if end user rates go down.

AT&T is "committed" to flow through access charge reductions to its customers. AT&T at 14. However, AT&T cites nothing legally binding for this commitment. Thus AT&T should not be heard to complain if the Commission orders end user rate reductions. Indeed, AT&T states, in the context of its proposal to increase the Subscriber Line Charge (SLC), that the Commission should ensure "that consumer prices for telecommunications services will fall by at least the SLC increase." AT&T at 53. The Commission should also ensure an end user rate decrease whenever access charges decrease.[2]

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[2] There is indeed question about the level of AT&T's "commitment." *See, e.g.*, "Providers call on FCC to reduce NYNEX bills," *Capital District Business Review* (July 29, 1996) at

MCI (at 6) "pledges that when the overcharges for access are abolished, MCI will pass on the savings to our customers." MCI (at 5) also practically begs for a flow through order: "The access charge proceeding ... presents an opportunity for the Commission to provide a consumer benefit -- lower long distance prices -- right now." RTC (at 26), on behalf of small ILEC throughout the nation, supports the pass through of access charge reductions to end users.

AT&T (at iv) says that the "prescriptive" approach is "misnamed because it is the *only* mechanism by which to create genuine competition and true 'market-based' rates." (Emphasis in original.) Equally, at this point a prescriptive approach to flow through is the only mechanism to ensure true "market-based" end user toll rates.

### 2. Efficient pricing of access charges will not significantly enhance competition for access.

CBT asserts (at 13) that the availability of resale and unbundled network elements will prevent the ILECs from charging excessive prices for access. The OCC's position is that only true facilities-based local service competition will allow effective competition for local exchange access. AT&T agrees (at 45): "[E]ven when UNE-based competition develops, its existence will provide only an indirect and imperfect pressure on access rates." *See also* TW at 26.

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1, where it is stated by an AT&T spokesperson that some of the money previously directed to access charges would go toward upgrading the network and other improvements.

Again, access charge reform will not significantly enhance competition for local exchange access. Thus other reasons, like an immediate reduction in end user rates, must drive changes to the access charge structure.

### 3. Which is preferable: the market-based approach or the regulatory approach?

SCA (at 37) and TPUC (at 4) agree that the market-based approach is not appropriate due to ILEC market power. *See* TPUC at 20: "Incumbents will certainly use their market power to maximize their profit and competitive position." *See also* CPI at 28. MCI complains (at 36) that "[t]he market-based approach may permit inefficient competitors to enter the market while the rates remain artificially high...." As seen in SCA's and TPUC's comments, that is the least of our worries.

Market power is why it is inappropriate to give the ILECs the substantial deregulation proposed by the NPRM. Ameritech's view that the Commission should give pricing flexibility upon "additional proof that at least one CAP or CLEC is providing services in the relevant market" (at 30) unwittingly exposes one of the problems with such an approach: It requires a market-by-market analysis -- far smaller than statewide or even LATA-wide -- and will benefit only those areas already targeted by CLECs. CBT argues (at 18) that the mere existence of an interconnection agreement eliminates market power. However, as AARP states (at 20), "'actual' competition should be considered the necessary and sufficient threshold." *See also* NARUC at 10; TW at 24.

GTE asserts (at 7) that the Commission should "permit the ILECs ... to price according to the market.... If they price too high, competitors will build facilities to compete for access." This assumes the ability of facilities-based competitors to enter markets instantaneously and ubiquitously, an assumption hardly borne out by historical reality. GTE's claim (at 10) that "[t]his new competitive framework effectively forecloses the ILECs' ability to exercise market power in the access market" similarly ignores reality.

The OCC agrees with SCA (at 25) that the FCC can, however, allow the market to do its work by not specifying how much of the interstate common line costs should be billed to end users as a fixed charge, and how much should be billed otherwise. The SCA correctly asserts (at 26) that only this position reflects true market-based pricing. This combination of market-based and prescriptive approaches meets the Commission's goal of making access charges compatible with the "competitive paradigm of the 1996 Act." NPRM at ¶ 1.

## B. Access charges that include contribution to the cost of the loop are not subsidies.

### 1. The subsidy question

The term "subsidy" appears in virtually all comments. As frequent as its appearance, however, is the rarity of any definition of the term. Consistent with economic principles, a service is subsidized if it is priced below TELRIC/LRSIC including a reasonable allocation of joint/shared costs. If a service makes *any* contribution to the common costs of the firm, it is not being subsidized.

Many parties assert that residential service is subsidized. This subsidy notion is broadly applied.[3] Yet it is never applied with the precision required by economic principles. And whenever this notion is tested in the crucible of an open state proceeding, it is found to be false. *E.g.*, the recent decision of the Washington Commission cited by SCA at 12.

Sprint states (at 5) that "[n]o one can seriously contend that these rates cover the full cost of local service. It is economically irrational to maintain local rates at such an artificially low level." Sprint's position overstates the "full cost of local service" by, for example, placing the full cost of the loop onto basic local service, and also underestimates the revenues from "local service" by ignoring vertical services and, among other things, the SLC.[4]

Some argue that any costing mechanism that caused access charges to be any "higher than they otherwise would be" creates a subsidy by those access charges to other

[3] In its application to the Public Utilities Commission of Ohio for suspension and modification under Sec. 251(f)(2) of the Act, CBT asserts that residential service rates in general are below cost. PUCO Case No. 96-1317-TP-UNC, Application (December 9, 1996) at 11.

[4] Sprint's extensive argument (at 5-6) that it is appropriate to raise residential basic service rates because demand for basic service is inelastic and because most residential consumers could afford such increases clearly raises the goal of economic efficiency to absurd heights.

services. The illogic of this argument is shown by SCA's parallel assertion (at 8) that "requiring basic local exchange service to recover [any] portion of joint and common costs makes local rates higher than they otherwise would be."

### 2. Costing principles for end user services should be consistent with those for carrier services.

There is a broad consensus among many parties that access charges should be "at economic costs." However, there appears to be a wide, but shallow, divergence in terms of what constitute "economic costs."

For instance, AT&T states (at 15) that "[t]o the extent that access charges exceed economic cost, an ILEC faces a lower cost of providing long distance service than competitors who must pay excessive exchange access charges." However, this view assumes that the ILEC has no common costs, to which *all* of its services must contribute. The services sold to IXCs cannot escape that fundamental business requirement. Indeed, AT&T uses "at economic cost" and "cost-based" synonymously.[5] Then, finally, AT&T admits (at 40) that "forward-looking" costs include "a reasonable share of joint and common" costs.

As argued by SCA (at 3), "[t]he economic price for a service does not equal long run incremental cost (LRIC). The economic price of a service is within a range with the incremental cost as floor and the stand alone cost as the ceiling." This range allows each

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[5] *See also* AT&T at 58: "The 1996 Act requires the Commission ... to price access at TELRIC."

service to be responsible for some of the difference between the direct incremental cost and the shared and common costs that all firms, no matter how efficient, incur.

AARP notes (at 9) that the Commission has endorsed TELRIC pricing of network elements in the Interconnection Order, and that the Federal State Joint Board has also recommended the use of TELRIC pricing in the Universal Service proceeding. In both contexts, an allocation of shared and common costs is included in forward-looking costs. As AARP states (*id.*), "to fail to adopt the same standard on the issue of access charge reform would be inconsistent and seriously damage the prospects for competition in the local telephone market."[6]

**3. Forward-looking costs include shared and common costs**

As simply put by SCA (at 8), "Prices in competitive markets recover joint and common costs." In the comments reviewed by the OCC, *no commenter asserted that joint and common costs should be ignored in pricing access.*[7]

With regard to the difference between current access costs and current access prices, AARP alleges (at i) that "the gap between embedded and forward-looking efficient costs is made up of excess profits, inefficiencies and strategic investments." AARP never

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[6] GTE (at 5, n. 7) again distorts the Commission's position on pricing, claiming that "[n]o provider in a competitive market could price at TELRIC and recover sufficient costs to survive." The Commission's rules require pricing at TELRIC *plus* a reasonable allocation of shared and common costs. That is the most that any provider in a competitive market could hope for.

[7] The ILECs argued for a guaranteed recovery of *all* costs. See Part B.7, *infra*.

specifies whether its view of "forward-looking efficient costs" includes shared and common costs.[8] The OCC doubts whether *all* of the gap between embedded and forward-looking costs represents excess profits, inefficiencies and strategic investments. However, there surely are substantial amounts of such "inefficiencies" built in to the current level of interstate access charges, as well as current end user rates. Economic theory would presume all such inefficiencies to arise from a virtual monopoly local service market and a highly concentrated interexchange market. Of necessity, however, there are some common costs that no efficient firm can avoid.

**4. The shared costs of interstate access include part of the loop.**

AT&T alleges that removing "implicit carrier support subsidies" requires "full recovery of NTS loop costs from the subscriber...." AT&T at 8. As noted above, this contradicts AT&T's acknowledgment that access charges should cover a reasonable share of joint and common costs. AT&T at 40. AT&T's subsidy argument ignores the principle recently found by the Commission in the Interconnect Order (as pointed out by TPUC at 9) that the loop is a cost common to both local and long distance service. AT&T's numerous citations to the 1983 Access Charge Order (AT&T at 51-52) cannot override the more recent Commission finding.

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[8] In a footnote (at 9), AARP recognizes that this Commission's definition of TELRIC

Like AT&T, Ameritech would also ignore the recognition that the loop is a shared cost. Ameritech says (at 9) that the recovery of loop costs through the CCL is "an implicit subsidy ... to the local exchange service that 'causes' those loop costs." *See also id.* at 10; CBT at 6; Sprint at 11. Ameritech fails to acknowledge that the loop is "caused" by all of the services offered over it; the costs of the loop should be shared by all of those services, including long distance access. By contrast with Ameritech and AT&T, ALLTEL (at 11) affirms that "[t]he subscriber loop costs should be borne by all users of the loop, including the IXCs."

Sprint (at 11) notes that "roughly 2.5% of Sprint's local residential customers and a surprising 14.3% of its business customers made or received no toll calls during the one month study period and thus generated no CCL revenue at all." Sprint says that this means that these customers "were getting a partially free ride." *Id.* From another perspective, these customers were paying the SLC for the interstate portion of the loop *that they never used.*

AARP methodically refutes the notion that the loop is a cost only of basic service. AARP at 12-14. And SCA compares costs to benefits (at 41): "The simple fact is that the toll carriers receive a great advantage from using the common line because the majority of the common line costs are supported by local exchange service." *See also* PUCO at 3. What if the IXCs had to build their own local loops today?[9]

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[9] The lack of IXC local facilities also fully justifies the difference between interstate, interexchange access rates and local network interconnection costs. A new entrant LEC

SCA states (at 21): "In the open market, it would be rare for the customer of a service to be forced to bear 100% of the costs of a facility used in common to provide more than one service." Yes, and it should be much rarer -- indeed, non-existent -- in an area so imbued with the public interest as telecommunications service to residential consumers.

It is alleged that local service end users are the sole "cost causers" for the network, justifying placing all loop costs onto the local service end user. *See, e.g.*, CBT at 6. However, as SCA points out (at 18), if end users were the exclusive cost causers in the network, then end users would be seeking to purchase unbundled network elements.[10] Such is not the case.

AT&T claims (at 52) that "the fundamental flaw in the CCLC is that it is not assessed on the 'cost causing' purchaser of the subscriber line." Yet not all the costs of the network are caused by the end user *receiving* the call; the costs are also caused by the *calling party.* These costs are properly paid by the calling party through the end user charges that are paid to the IXC.

GTE claims (at 42) that "any amount of interstate loop costs not recovered through the SLC should be explicitly funded through universal service." This clearly

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has its own local network, to which its customers contribute. Its territory is to some extent contiguous to the ILEC's territory. An IXC, on the other hand, has no local network, and thus must contribute more to the cost of the local loop in order to be able to use that loop.

[10] Thus the CCLC (as a concept) is not an implicit means of universal service support, as argued by AT&T at 52.

assumes that *any* payment by the IXCs for the loop is a universal service support mechanism. It is not. As stated by SCA (at14), Sec. 254(k) of the Act in fact requires that basic service bear only a reasonable allocation of the costs of the loop. The Act does not permit others to evade their responsibility for these common costs.

In conclusion, as noted by PUCO (at 5), "assessing IXCs charges for their use of the loop to access end user customers should not be considered a subsidy since absent access to ... the local network IXCs could not, in most cases, access their customers." Where the local network is not needed to access customers, there should no access charges.

### 5. SLC? CCLC? or WHAT?

In arguing that the SLC should be eliminated, SCA compellingly states (at 4) that

> [c]ompetition between the IXCs should be allowed to determine in what form those [interstate common line] costs are billed through to the end users. The FCC does not need to prescribe the billing form this recovery will take because the FCC has determined that the interexchange market is competitive.

As additional reasons to eliminate the SLC, TPUC (at 11-12) argues that the SLC must be done away with, in order to ensure that access charge reductions get passed though to the end user. NARUC also argues (at 13) that the SLC should be eliminated, with NTS loop costs recovered through a per line charge to the IXC. The OCC agrees with these parties.

AARP, on the other hand, argues (at 14-16) that the SLC should be lowered to $1.80 to reflect declining loop costs and the use of the TELRIC rather than the embedded costs of the loop. The OCC agrees that if the SLC is retained, it should be lowered.

If the Commission retains the SLC, SCA proposes (at 27) to base the charge on a 50/50 sharing of interstate loop costs between the SLC and a flat rate charge to IXCs. As Ameritech states (at 5), end users and IXCs should share in the responsibility for loop costs. Indeed, *all* services that use the loop should contribute to recovery of its cost. (If the SLC is eliminated, end users will pay for the loop through their long distance bills.)

MCI would eliminate the current traffic-sensitive (TS) charge to recover a non traffic sensitive (NTS) cost, and would quite simply, "charge a flat, per-line rate to the interexchange carrier (IXC) to whom the line is presubscribed." MCI at 77. Yet it is important to note SCA's arguments (at 18) that the supposedly NTS loop costs are actually "lumpy" traffic sensitive costs.

CBT, like other ILECs, proposes (at 6) to eliminate the CCLC and lift the SLC cap so that all loop costs can be paid by end user "cost causers."[11] As noted above, this represents a distorted view of who (or what) "causes" the loop. RTC states (at 7) that "either a flat rate or bulk billed CCL mechanism will properly reflect cost causation principles."

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[11] If the SLC cap is not lifted, CBT supports a flat rate charge for the IXCs. CBT at 9. Interestingly, CBT (*id.*) uses the Joint Board's recommendation against raising the SLC as support for its argument against collecting a flat rate charge from users who do not have a PIC.

Ameritech (at 9-10), would transfer the loop funding from the CCLC to an assessment based on interstate retail revenue share. However, Ameritech also opposes any cap on the SLC (at 12), because the cap "prevents an ILEC from charging the full loop cost directly to the subscriber." That is precisely the point of the SLC cap, and precisely why the cap should be retained, if not lowered.

TW proposes that either the SLC should be raised to include all common line costs, or those costs should be paid by IXCs on a non-traffic sensitive basis. TW at 4-6. TW expresses no preference for either alternative; as noted above, increasing the SLC is not in the public interest.

Sprint argues (at 15) that "IXCs should not be singled out for subsidization of the local loop." Sprint asserts that "intraLATA toll carriers, local service providers, wireless carriers, and other entities" should also pay for the loop. *See also* CPI at 14. The OCC understood that to be precisely the reason for the Commission's inclusion of shared and common costs in the TELRICs for interconnecting services.

The OCC agrees with CPI (at 20) that the Commission proposes continuing the Transport Interconnection Charge (TIC) "without knowing what these costs are intended to recover." Until the ILECs can demonstrate that the costs are appropriate for recovery, the Commission should phase out the TIC.

**6. Geographic deaveraging is not in the public interest**

Many parties object to the Commission's fascination with deaveraging. For instance, TPUC correctly responds (at 13) that "[t]he notion that every product is sold at deaveraged price in the market is simply wrong." As explained by AARP (at 19), "[t]he theoretical economist's goal of creating complex tariff structures to force each pricing element to mirror some conceptually pure image of how costs are incurred is futile." And RTC notes ( at 5) that "[t]he very discussion in the NPRM of the failings of the current rules in this regard should alert the Commission to the essential impossibility of reasonably approximating this goal."

With regard to the Commission's specific proposal for deaveraging of access rates, AT&T correctly notes (at 79) that "exchange access rate deaveraging cannot be reconciled with Sec. 254(g) of the Act, which requires exchange rate *averaging*." (Emphasis in original.) Thus GTE's claim (at 49) that deaveraging is more efficient has been foreclosed by Congress. SCA cites (at 5) the adverse affect of deaveraging on rural customers.[12] *See also* RTC at 27-28.

MCI has another point (at 57): "The essential problem with geographic deaveraging is that it would allow an incumbent LEC to lower access charges in only those markets where it faced competitive entry." Not only that-- geographic deaveraging

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[12] SCA also (*id.*) correctly notes that averaging is not an "implicit" form of universal service support disfavored by the Act.

"may even induce the LECs to raise charges in other markets." *Id.* As TW states (at 8), "[T]here is simply too great a risk that ILECs would use this freedom to engage in anticompetitive pricing strategies."

ALLTEL supports (at 11) geographic deaveraging of the SLC, calling an averaged SLC "a subsidy flowing from urban to rural areas." *See also* GTE at 49-50. In Ohio, at least, ALLTEL and GTE serve no urban areas, so any deaveraging of SLCs would not affect ALLTEL's or GTE's customers here. It would, however, severely affect customers of Ameritech, which serves Ohio's largest municipalities along with much rural territory.

On the subsidy question, TW notes (at 9) that the Sec. 254(b)(3) provision requiring rural rates to be "reasonably comparable" to urban rates "would seem to establish an exception to the Section 254(e) rule that all subsidies should be explicit." This provision, like the Sec. 254(g) requirement of interexchange rate averaging, calls into question the Commission's entire deaveraging plan.

Increases due to deaveraging harm those with the fewest (if any) competitive alternatives. The OCC thus agrees with the PUCO (at 4) that if deaveraging is allowed, it can only be used to decrease rates.

### 7. The ILECs' "make whole" arguments should be rejected

The OCC opposes the "make-whole" arguments of the ILECs. For instance, GTE claims (at 79) that "ILECs must be permitted to recover all costs assigned to the interstate jurisdiction." *See also* CBT at 21-23. RTC refers (at 19) to LECs operating under

"Commission requirements ... that guaranteed they could set their rates to recover prudent investments." The only guarantee to a public utility is of the *opportunity* to recover investments.

AT&T (at 29-39) and TW (at 43-47) comprehensively debunk the ILECs' arguments, including GTE's "takings" argument. *See* GTE at 79-86. TPUC argues (at 21) that "all forms of 'make-whole' regulatory policies are anti-competitive and anti-consumer." As TPUC further notes (at 22): "To be sure, competition and provisions that seek to keep the incumbent LEC 'whole' are fundamentally incompatible. One must choose one or the other. *Congress chose competition*." (Emphasis in original.)[13]

AT&T asserts (at 13), that no more than $4.0 billion of the $10.6 billion of the excess of access charges over economic costs is required to subsidize rates in high cost areas. MCI claims (at 24) that $1.3 billion out of $11.6 billion excess over economic costs is a subsidy. Whatever the amount, the remainder should be able to be removed without any increase to basic service rates, because that amount that should be covered by the Universal Service Fund.

AT&T also notes (at 37) that "[i]t is simply inconceivable that the ILECs as a group would not earn enough from [other] services, above and beyond their forward-looking costs, to recover any 'shortfall.' ... And it is even more inconceivable that the

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[13] Ameritech (at 23) would require state commissions to begin proceedings to make the ILECs whole. Ameritech's proposal is as unnecessary on the state level as it is on the interstate level.

ILECs would not have at least a fair *opportunity* to earn in excess of that amount." As stated by AARP (at 5), "[e]ven if ... local exchange companies lose some local exchange and network access market opportunities to recover their joint and common costs in local markets, they will have gained many opportunities in other markets." *See also* TW at 42.

AT&T would have the Commission address the impacts on ILECs of a "cost-based" access charge regime "once the commercial consequences of the new competitive regime become apparent." AT&T at 41. The OCC agrees, although noting that the same rationale extends to addressing the impact on the IXCs of a regime that allocates a reasonable share of joint and common costs to them, once the commercial consequences -- including profit levels -- of such a regime become apparent.

## CONCLUSION

Most of the debate here turns on economic efficiency. As the SCA has conclusively demonstrated, reduced end user charges for toll service (including the SLC) and reduced IXC access charges (that flow through to end users in lower toll rates) are not only consistent with, but dependent upon each other, and economically efficient.

CPI (at 14) argues that "[p]rices for access are likely so far above economic costs that the Commission can be confident that any lack of accuracy which might ultimately afflict cost studies will not be relevant now." Thus although, as AT&T alleges (at 17), current access charges are "supracompetitive," this does not mean that any loss in ILEC access charge revenues from access charges should flow to the end user. Quite the contrary: As CPI states (at 23), "access charges can be substantially reduced without running into any party's margin." Such cost reduction should, in a competitive market, and must, in the real world interexchange market, be flowed through to end users.

Further, as AARP indicates (at 14) the cost of the loop is declining, along with virtually all other inputs to telecommunications services. This also argues against increasing end users' contribution to the interstate costs of the loop.

Clearly, as SCA states (at 55), "Restructuring access should not be used as an excuse to raise end user rates, raise the allocation [of costs] to the intrastate jurisdiction, or to make up revenue reductions from switched access by increasing other services. The goal is to drive prices to efficient levels and not to merely shift costs from one category of services to another." That would not be in the public interest.

Respectfully submitted,

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